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**DEPARTMENT OF THE TREASURY**

**Office of Foreign Assets Control**

**31 CFR Part 561**

**Iranian Financial Sanctions Regulations**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

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**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control is amending the Iranian Financial Sanctions Regulations in order to implement sections 214 through 216 of the Iran Threat Reduction and Syria Human Rights Act of 2012.

**DATES:** Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

**SUPPLEMENTARY INFORMATION:**

**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site ([www.treas.gov/ofac](http://www.treas.gov/ofac)). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

**Background**

On August 10, 2012, the President signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012 (Pub. L. 112-158) (the "TRA"), in order to strengthen the sanctions imposed against Iran. Sections 214 and 215 of the TRA amend

section 104(c)(2) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195) (22 U.S.C. 8501-8551) ("CISADA") by expanding the categories of sanctionable activities set forth in that section.

Section 104(c)(2) of CISADA sets forth the activities for which the Secretary of the Treasury is authorized to prohibit or impose strict conditions on the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution if the Secretary finds that the foreign financial institution knowingly engages in one or more of those activities. Under section 104(c)(2)(B) of CISADA, facilitating the activities of a person subject to financial sanctions pursuant to a United Nations Security Council resolution that imposes sanctions with respect to Iran is listed as a sanctionable activity. Section 214 of the TRA amends section 104(c)(2)(B) of CISADA by expanding this sanctionable category to include facilitating the activities of "a person acting on behalf of or at the direction of, or owned or controlled by," a person sanctioned under such United Nations Security Council resolutions.

Section 215 of the TRA amends section 104(c)(2)(E) of CISADA to authorize the imposition of CISADA sanctions on a

foreign financial institution that knowingly facilitates significant transactions or provides significant financial services for a "person" (formerly, a "financial institution") whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with Iran's proliferation of weapons of mass destruction ("WMD") or delivery systems for WMD or Iran's support for international terrorism.

Section 216 of the TRA amends CISADA by adding new section 104A after section 104 of CISADA. That new section requires the Secretary of the Treasury to revise the regulations prescribed under CISADA section 104(c) to apply, to the same extent that they apply to a foreign financial institution found to knowingly engage in an activity described in CISADA section 104(c)(2), to a foreign financial institution that the Secretary of the Treasury finds (1) knowingly facilitates, or participates or assists in, an activity described in section 104(c)(2) of CISADA; (2) attempts or conspires to facilitate or participate in such an activity; or (3) is owned or controlled by a foreign financial institution that the Secretary finds knowingly engages in such an activity.

The Department of the Treasury's Office of Foreign Assets Control ("OFAC") originally published the Iranian Financial Sanctions Regulations, 31 CFR part 561 (the "IFSR"), on August 16, 2010, to implement sections 104(c) and (d) and other related provisions of CISADA (75 FR 49836). On February 27, 2012, OFAC amended the IFSR and reissued them in their entirety, in order to implement section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), which provides for the imposition of sanctions with respect to the Central Bank of Iran and designated Iranian financial institutions (77 FR 11724).

Today, OFAC is further amending the IFSR to implement the changes to CISADA made by sections 214 through 216 of the TRA. OFAC is revising section 561.201(a)(2) of the IFSR to incorporate the change made by section 214 of the TRA. Section 561.201(a)(5)(ii) and the note to paragraph (a)(5) are being revised to incorporate the change made by section 215 of the TRA. OFAC is revising the chapeau of section 561.201 and adding new paragraph (a)(6) to incorporate the change made by section 216 of the TRA.

In addition, OFAC is amending the definitions of foreign financial institution and Iranian financial institution in,

respectively, sections 561.308 and 561.320 of the IFSR. OFAC is amending these definitions to add "dealers in precious metals, stones, or jewels" to the examples of entities included in the definitions.

### **Public Participation**

Because the amendment of the IFSR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

### **Paperwork Reduction Act**

The collection of information in section 561.601 of the IFSR is made pursuant to OFAC's Reporting, Procedures and Penalties Regulations, 31 CFR part 501. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget ("OMB") under control number 1505-0164.

See 31 CFR 501.901. The collection of information in section 561.504(b) of the IFSR has been approved by OMB under control number 1505-0243. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

#### **List of Subjects in 31 CFR Part 561**

Administrative practice and procedure, Banking, Banks, Brokers, Electronic funds transfers, Financial institutions, Foreign banking, Foreign trade, International organizations, Investments, Iran, Jewels, Loans, Precious metals, Securities.

■For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends part 561 of 31 CFR chapter V as follows:

#### **PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS**

1. The authority citation for part 561 is revised to read as follows:

**Authority:** 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110-96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111-195, 124 Stat. 1312 (22 U.S.C. 8501-8551); Pub. L. 112-81, 125 Stat. 1298; Pub. L. 112-158, 126 Stat. 1214; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, 3 CFR, 2010 Comp., p. 253; E.O. 13599, 77 FR 6659, February 8, 2012.

#### **Subpart B—Prohibitions**

2. Amend § 561.201 by revising the introductory text, paragraphs (a)(2), (a)(4), and (a)(5)(ii), and the Note to paragraph (a)(5) of § 561.201 and adding new paragraph (a)(6) to read as follows:

**§ 561.201 CISADA-based sanctions on certain foreign financial institutions.**

Upon a finding by the Secretary of the Treasury that a foreign financial institution knowingly engages in one or more of the activities described in paragraphs (a)(1) through (a)(6) of this section, attempts or conspires to facilitate or participate in one or more of such activities, or is owned or



controlled by a foreign financial institution that the Secretary finds knowingly engages in one or more of such activities, consistent with the Secretary of the Treasury's authorities under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195) (22 U.S.C. 8501-8551) ("CISADA"), as amended by the Iran Threat Reduction and Syria Human Rights Act of 2012 (Pub. L. 112-158), either the Secretary of the Treasury will impose one or more strict conditions, as set forth in paragraph (b) of this section, on the opening or maintaining of a correspondent account or a payable-through account in the United States for that foreign financial institution, or, as set forth in paragraph (c) of this section, the Secretary of the Treasury will prohibit a U.S. financial institution from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution. The name of the foreign financial institution and the relevant prohibition or strict condition(s) will be added to the List of Foreign Financial Institutions Subject to Part 561 (the "Part 561 List") on the Office of Foreign Assets Control's Web site ([www.treasury.gov/ofac](http://www.treasury.gov/ofac)) on the Iran Sanctions page and published in the Federal Register.

(a) \* \* \*

(2) Facilitates the activities of—

(i) A person subject to financial sanctions pursuant to United Nations Security Council Resolutions 1737, 1747, 1803, or 1929, or any other resolution adopted by the Security Council that imposes sanctions with respect to Iran; or

(ii) A person acting on behalf of or at the direction of, or owned or controlled by, a person described in paragraph (a) (2) (i) of this section;

\* \* \* \* \*

(4) Facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in paragraphs (a) (1) or (a) (2) of this section;

(5) \* \* \*

(ii) A person whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass

destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism; or

**Note to paragraph (a) (5) of § 561.201:** The names of persons whose property and interests in property are blocked pursuant to IEEPA are published in the Federal Register and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the "SDN List"). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: [www.treasury.gov/sdn](http://www.treasury.gov/sdn). Additional information pertaining to the SDN List can be found in appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps ("IRGC") whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the "IRGC" at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. part 544, will have the tags "[NPWMD][IRGC]" at the end of its entry on the SDN List. Persons whose property and interests in property are blocked pursuant to parts 544 or 594 of this

chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism also are identified by the tag "[IFSR]" in addition to the tag referencing part 544 or part 594, as the case may be, located at the end of their entries on the SDN List (e.g., [NPWMD] [IFSR] or [SDGT] [IFSR]). In addition, see § 561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

(6) Facilitates, or participates or assists in, an activity described in paragraphs (a)(1) through (a)(5) of this section, including by acting on behalf of, at the direction of, or as an intermediary for, or otherwise assisting, another person with respect to the activity.

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#### **Subpart C-General Definitions**

3. Revise § 561.308 to read as follows:

**§ 561.308 Foreign financial institution.**

The term foreign financial institution means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by the Office of Foreign Assets Control.

4. Revise § 561.320 to read as follows:

**§ 561.320 Iranian financial institution.**

The term Iranian financial institution means any entity (including foreign branches), wherever located, organized under the laws of Iran or any jurisdiction within Iran, or owned or controlled by the Government of Iran, or in Iran, or owned or controlled by any of the foregoing, that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing.

Dated: \_November 6, 2012.

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Adam J. Szubin,

Director, Office of Foreign Assets Control.

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